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IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JEREMIAH M., et al.,

Plaintiffs-Respondents,

v.

KIM KOVOL, et al.,

Defendants-Petitioners.

U.S.C.A. No. 23-2726

MOTION FOR LEAVE TO FILE AN
AMICUS BRIEF IN SUPPORT OF THE
STATE OF ALASKA'S PETITION FOR
PERMISSION TO APPEAL

Under Federal Rules of Appellate Procedure 27 and 29, the State of Oregon moves for leave to file the attached amicus brief in support of Defendant-Petitioner State of Alaska's petition for permission to appeal. Defendant-Petitioner consents to the filing of an amicus brief; Plaintiffs-Respondents oppose this motion.

Under Rule 29(a)(2), states can file an amicus brief as a matter of right during the merits phase of an appeal. However, the rules do not expressly contemplate or provide for filing amicus briefs at this stage of appeal, namely, when a party has petitioned the Court for permission to appeal an order certified under 18 U.S.C. § 1292(b). Oregon thus moves under Rule 27 for leave to file an

amicus brief here.

As discussed more fully in the attached brief, Oregon has a particular interest in the abstention question at issue in this case. As in Alaska, plaintiff group A Better Childhood, an advocacy organization based in New York City, has sued Oregon's child-welfare system in a federal class action that seeks the appointment of a federal monitor to reform, restructure, and effectively run the state system. *Wyatt B. v. Kotek*, No. 6:19-cv-556 (D. Or.). And federal courts of appeals have diverged on whether lower federal courts should abstain from such suits under the Supreme Court's *Younger* abstention doctrine, given the central oversight role that state trial courts play in ongoing child-welfare proceedings. This Court has yet to weigh in on that existing and deepening circuit split. Oregon—and all states in the Ninth Circuit—thus have a significant interest in this Court providing clear guidance on the abstention issue to lower federal courts. Oregon thereby requests leave to file a brief in support of Alaska's petition.

Respectfully submitted,

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/s/ Robert A. Koch

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CERTIFICATE OF SERVICE

I hereby certify that on October 17, 2023, I directed the Motion for Leave to File an Amicus Brief in Support of the State of Alaska's Petition for Permission to Appeal to be electronically filed with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate ACMS system.

I certify that all participants in the case are registered ACMS users and that service will be accomplished by the appellate ACMS system.

/s/ Robert A. Koch

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